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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/575,269	04/11/2006	Gershon M. Kagan	P08910US00/RFH	8866
881	7590	01/04/2010	EXAMINER	
STITES & HARBISON PLLC 1199 NORTH FAIRFAX STREET SUITE 900 ALEXANDRIA, VA 22314			CHEUNG, MARY DA ZHI WANG	
ART UNIT	PAPER NUMBER			
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/575,269	<b>Applicant(s)</b> KAGAN ET AL.
	<b>Examiner</b> MARY CHEUNG	<b>Art Unit</b> 3694

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 25 September 2009.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 19,23-25,27,30-37 and 57-61 is/are pending in the application.

4a) Of the above claim(s) 57-61 is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 19,23-25,27 and 30-37 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 9/25/09

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_

5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Status of the Claims***

1. This action is in response to the applicant's filing filed on September 25, 2009. Claims 19, 23-25, 27, 30-37 and 57-61 are pending. Claims 1-18, 20-22, 26, 28-29 and 38-56 are canceled. Claims 57-61 are added. Claims 19, 24-25, 30 and 35-37 are currently amended. Claims 57-61 are withdrawn from considerations. Claims 19, 23-25, 27 and 30-37 are examined below.

### ***Response to Arguments***

2. Applicant's arguments filed September 25, 2009 have been fully considered but they are not persuasive.

In response to the applicant's arguments that Mascavage fails to teach network operators, this matter is taught by Mascavage as the user bank, merchant bank or the interfaces associated with the bank accounts (see ¶ 38 and Figs. 1A-1B). Although Mascavage does not specifically use the word "operator", the user bank, merchant bank or the interfaces associated with the bank accounts are operated as an operator via computer(s) to perform transactions. Thus, Mascavage teaches the network operators.

3. Since Applicant(s) did not seasonably traverse the Official Notice statement as stated in the previous Office Action mailed on April 27, 2009, the Official Notice statement is taken to be admitted prior art. See MPEP §2144.03.

### ***Election/Restrictions***

4. Newly submitted claims 57-61 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: Claims 19, 23-25,

27, 30-37 are drawn to general network transactions; Claims 57-61 are drawn to cellular networks communications.

5. Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 57-61 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 19, 23 and 30-36 are rejected under 35 U.S.C. 102(e) as being anticipated by Mascavage, III et al., US 20003/0126075 A1.

As to claim 19, Mascavage teaches for use in an electronic commerce system allowing a customer having an account with a first network operator to purchase goods and services from a merchant having an account with a second network operator, a payment gateway for communication with at least one similar payment gateway for enabling a transaction desired by a customer having an account with a first network operator from a merchant having an account with a second network operator, including

(¶ 38, 41 and Figs. 1A-1B; “*an account with a first network operator*” corresponds to the user bank or the first interface, and “*an account with second network operator*” corresponds to the merchant bank or the second interface in Mascavage’s teaching):

- a peer recognizer for verifying the identity of other payment gateways in networks of network operators other than the network operator on which the peer recognizer is located (¶ 49, 51 and Figs. 3A-3B);
- a local transaction interface for accepting transaction requests that originate with parties that are based on the network on which said payment gateway is based and for providing transaction acknowledgements to requesting parties for verified transactions (¶ 57, 61, 64-67 and Figs. 3B, 5A-5B);
- a remote transaction interface (e.g. PDA, see ¶ 65) adapted to transmit transaction requests received by the local transaction interface to one of the other payment gateways verified by the peer recognizer and identified as being the other side of the transaction, over a network connecting networks of different network operators, and to transmit transaction acknowledgements in response to transaction requests, in real time (¶ 51, 65 and Figs. 3A-3B, 5A-5B).

As to claim 23, Mascavage teaches a pricing agent for determining the total cost to the customer of the transaction, including charges added thereto by all parties to the transaction (¶ 81).

As to claim 30, Mascavage teaches wherein said peer recognizer verifies the identity of other said payment gateways participating in enabling a transaction by means

of a central payment gateway operative to notify all participating payment gateways of the existence and identity of any new payment gateways (¶ 51 and Figs. 3A-3B).

As to claim 31, Mascavage teaches wherein the customer has a multiplicity of accounts with a multiplicity of respective first payment service providers and wherein the customer selects a particular account for executing the transaction and wherein said router directs messages pertaining to the transaction to the first payment service provider with which the customer has the selected account (¶ 70 and Figs. 4-5B).

As to claims 32-34, Mascavage teaches wherein the multiplicity of accounts of the customer includes at least one of: a credit card, a debit card, a preauthorized credit line, a prepaid debit account, a rechargeable prepaid debit account, a prepaid telephony account, and a postpaid telephony account (¶ 13, 59-61 and Figs. 5B; *Notes: the limitation "at least one of" shows if one of the features is found in the prior art, it would satisfy this limitation. Since Mascavage teaches credit card account, all other accounts such as rechargeable prepaid debit account are not required taught by Mascavage; thus, the features claimed in claims 33 and 34 are not required taught by Mascavage*).

As to claim 35, Mascavage teaches a customer authenticator which verifies the identity of the customer by means of at least one member of the group including: a signature, a SIM card, an identifying object, a secret code, and a biometric identifier (¶ 50-52).

As to claim 36, Mascavage teaches said customer authenticator requires verification of the identity of the customer that requires confirmation from the first

payment service provider wherein the customer has an account (¶ 71-76 and Figs. 5A-5B).

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mascavage, III et al., US 20003/0126075 A1 in view of Cole et al., US 2002/0161707 A1.

As to claim 24, Mascavage teaches the payment gateways as discussed above. Mascavage does not specifically teach an advisor for relaying, from said pricing agent via said local transaction interface, the corrected total cost information to the customer via the remote transaction interface and for returning, via said local transaction interface, the customer's confirmation to proceed with the transaction. However, this matter is taught by Cole as an advisor update charges according to the corrected total cost information to the customer via the remote network and for returning, via local transaction interface, the customer's confirmation to proceed the transaction (¶ 171 and Figs. 37-42). It would have been obvious to one of ordinary skill in the art at the time the invention was made to allow the payment gateway in Mascavage's teaching to include an advisor as taught by Cole so that the payments can be properly allocate and charged.

As to claim 25, Mascavage does not specifically teach a foreign exchange adjuster for correcting the total cost of the transaction for differences in the currency exchange rates for currencies used by the parties to the transaction and for converting, according to suitable currency exchange rates, all costs and charges into the currency employed by the first network operator. However, this matter is taught by Cole as a foreign exchange adjuster to convert different currencies and calculate the total cost for the transaction according the corresponding exchange rate (¶ 60, 146-148). It would have been obvious to one of ordinary skill in the art at the time the invention was made to allow Mascavage's teaching to include a foreign exchange adjuster as taught by Cole for encouraging global trading.

10. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mascavage, III et al., US 20003/0126075 A1 in view of Official Notice.

As to claim 27, Mascavage teaches wherein communication among said payment gateway and said at least one similar payment gateway is via a network (Fig. 1A-1C). Mascavage does not specifically teach the network is a SS7 network. The examiner takes Official Notice that SS7 network is well known in the art. It would have been obvious to one of ordinary skill in the art at the time the invention was made to allow the network in Mascavage' teaching to be SS7 network for better compliance with the well known technology.

11. Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mascavage, III et al., US 20003/0126075 A1 in view of Official Notice now admitted prior art.

As to claim 37, Mascavage teaches a customer authenticator for verifying the identity of the customer as discussed in claim 19 above. Mascavage does not specifically teach said customer authenticator requires verification of the identity of the customer that is completed by the customer at the location of the merchant. The examiner takes Official Notice that it is well known in the art the authenticate identity by the customer at the location of the merchant. For example, the customer uses a debit card to make a purchase at the location of the merchant by swiping the debit card and entering the PIN number. It would have been obvious to one of ordinary skill in the art at the time the invention was made to allow the authentication in Mascavage's teaching to be performed by the customer at the location of the merchant for quickly settling the transaction.

***Conclusion***

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

***Inquire***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARY CHEUNG whose telephone number is (571)272-6705. The examiner can normally be reached on Monday – Thursday from 10:00 AM to 7:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell, can be reached on (571) 272-6712.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

The fax phone numbers for the organization where this application or proceedings is assigned are as follows:

(571) 273-8300 (Official Communications; including After Final Communications labeled "BOX AF")  
(571) 273-6705 (Draft Communications)

/Mary Cheung/  
Primary Examiner, Art Unit 3694  
December 30, 2009